

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.709 of 2022

Lingaraj Samantray

....

Petitioner

Mr.Jyotirmaya Sahoo, Advocate

-versus-

***M/s.Sriram Transport
Company Ltd.***

Finance

Opp.Party

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
8.4.2022**

Order No.

2.

1. Heard Mr.Sahoo, learned counsel for the Petitioner.
2. Rejection of the prayer of the Petitioner, who is an accused in I.C.C. Case No.225 of 2015 in the court of the learned J.M.F.C., Berhampur for further cross-examination of P.W.1-complainant on recall, is the subject matter of challenge in the present petition.
3. The prayer of the Petitioner was rejected mainly on the ground that after two years of examination of P.W.1, a petition on behalf of the accused was filed and the questionnaire prepared are not relevant for the purpose.
4. Considering the fact of consequent shutdown due to COVID-19 Pandemic and upon perusal of questionnaire mentioned in the petition under Annexure-1 *vis-a-vis* the evidence of P.W.1, the prayer of the Petitioner to further cross-examine P.W.1 is allowed. The impugned order dated 4th March, 2022 of the

learned J.M.F.C., Berhampur is set aside and he is directed to grant opportunity to the petitioner to further cross-examine P.W.1 on recall by fixing a suitable date. It is made clear that failing to cross-examine said P.W.1 by the Petitioner on the date fixed by the learned J.M.F.C., Berhampur, no further opportunity shall be granted to the Petitioner.

5. At this stage it is submitted on behalf of the Petitioner that despite interim order dated 15th March, 2022 of this Court staying further proceeding of I.C.C. No. 225 of 2015, the learned Magistrate has pronounced the judgment on the same day even after being intimated about passing of the interim order through affidavit filed before her. As such, the judgment, if any, pronounced by the learned J.M.F.C., Berhampur dated 15th March, 2022 in I.C.C. No. 225 of 2015 is set aside for violation of interim order of this Court and the learned J.M.F.C. is directed to proceed afresh after granting opportunity of further cross-examination of P.W.1 on production of certified copy of this order.

6. With aforesaid directions, the CRLMC is disposed of.

7. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

